

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on May 25, 2010, and the references cited therewith.

Claim 67 is amended, claims 1-66, 73, and 81 are canceled, and no claims are added; as a result, claims 67-72, 74-80, and 82 are now pending in this application.

#### **Examiner Interview Summary**

Applicant and Examiner Willse conducted a telephone interview on July 27, 2010, concerning the claim language and amendment thereof in light of the reference cited in the present Office Action. Agreement appeared to be reached that the amended claim language presented herein overcomes the teachings of the cited reference, pending possible search for additional references. Applicant thanks Examiner Willse for his time and consideration, in particular in making helpful suggestions for amended claim language in the Office Action.

#### **§ 102 Rejection of the Claims**

Claims 67-72, 74-80, and 82 were rejected under 35 USC §§ 102(e)/103(a) as allegedly anticipated by, or obvious over, Martin (U.S. Patent No. 5,653,743). Applicant respectfully traverses the rejection as follows.

Applicant does not admit that the cited reference is indeed prior art and reserves the right to swear behind at a future date. Nonetheless, in the interest of advancing prosecution thereof, Applicant respectfully submits that the claims of the present application recite subject matter that is patentably distinguishable from the teachings of the cited reference for at least the following reasons.

Per the suggestion helpfully provided in the present Office Action, Applicant has amended independent claim 67 to recite in part:

a body, the body having a superior end portion and a  
bifurcated inferior end portion defining a first leg and a second leg,

the first leg being longer than the second leg and the second leg having a continuously increasing diameter from an opening at a superior end of the second leg to an opening at an inferior end of the second leg, wherein the body is configured so that the first leg extends into one of the second and third sections of vasculature and the second leg terminates in the first section of vasculature;

Support for the amendment can be found in various locations in Applicant's specification as originally filed. Such support can be found at, for example: page 18, lines 14-25; page 19, lines 3-5; and Figures 1-2; among other locations.

The advantage of such a configuration is recited on page 18, lines 19-25, as:

Such tapered grafts are particularly useful, for example, in those situations where the aneurysmal condition extends from the aorta into the iliac, enabling the graft to have a larger diameter where it will lie in the bulged portion of the iliac and a smaller diameter where it will lie in the normal portion of the iliac.

From Applicant's review of the Martin reference, the reference does not teach each and every element and limitation of independent claim 67, as amended. For example, the Martin reference does not teach the elements referenced above with respect to independent claim 67.

For example, the Martin reference appears to teach a graft 2 having a top end 5 and bottom end 6. (Col. 2, lines 49-51 and 61-63; and Figure 1). The Martin reference also appears to teach that graft 2 includes an opening 7, and that a short tube graft 8 is attached to graft 2 at opening 7. (Col. 2, line 65, through col. 3, line 3; and Figure 1).

The Martin reference, however, does not teach that graft 2 has an increasing diameter from top, e.g., superior, end 5 to bottom, e.g., inferior, end 6. Rather, the Martin reference appears to teach that graft 2 has a decreasing diameter from superior end 5 to inferior end 6, as shown in Figure 1. That is, the Martin reference appears to teach that the diameter of graft 2 tapers, e.g., decreases, from a diameter of 8-11 mm at superior end 5 to a diameter of 3-6 mm at inferior end 6. (Col. 2, lines 61-65).

Further, the Martin reference does not teach that short tube graft 8 has an increasing diameter from opening 7, e.g., the superior end of short tube graft 8, to the inferior end of short tube graft 8. Rather, the Martin reference appears to teach that short tube graft 8 has a constant diameter from the superior end of short tube graft 8 to the inferior end of short tube graft 8, as shown in Figure 1. That is, the Martin reference appears to teach that the diameter of the superior end of short tube graft 8 is the same as the diameter of the inferior end of short tube graft 8.

As such, Applicant respectfully submits that the Martin reference does not teach each and every element and limitation of independent claim 67, as currently amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 102/103 rejection of independent claim 67, as currently amended, as well as those claims that depend therefrom.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0126 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 16<sup>th</sup> day of August, 2010.

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